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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/522,263	09/02/97	CROWLEY	R BSC011

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QM41/0203

EXAMINER	
SHAY, D	
ART UNIT	PAPER NUMBER
3739	9

DATE MAILED: 02/03/99

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Office Action Summary

Application No.

08/922263

Applicant(s)

Crowley

Examiner

D. Shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE —3— MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on October 30, 1998.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1- is/are pending in the application.
- Of the above claim(s) 18, 19, 31, 45, 46 & 51 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-17, 20-30, 32-44, & 47-50 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 & 5
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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Claims 18, 19, 31, 45, 46 and 51 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 7.

Applicant traverses alleging that a complete search would require searching in the same areas as the methods. Thus is not convincing since the methods would require a search in 128/898 which the apparatus does not.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 16 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Vona et al.

Claims 1, 2, 5-8, 10-13, and 15-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Takayama et al.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

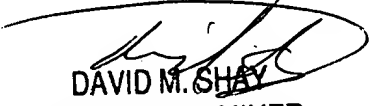
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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 9, 14, 20-30, 32-44 and 47-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over <sup>Champelon et al</sup> ~~Probe~~ in view of Takayama et al and Erwin et al. <sup>Champelon et al</sup> ~~Probe~~ teaches a device such as claimed except the express disclosure of the power levels. Vona et al teach the energy levels necessary for producing sonoluminescence. Erwin et al teaches using the light from a sonoluminescent source. It would have been obvious to the artisan of ordinary skill to configure the ultrasonic radiator of <sup>Champelon et al</sup> ~~Probe~~ to emit sonoluminescence by employing the parameters of Vona et al, since this would enable the dosage of ultrasound to be measured and to use the particular ultrasound crystal and various beam directing elements or other housing modifications since these are well known in the art and to employ any of the other light sources claimed, since these are equivalents and can be used for tissue dentifraction via reflectance, transmittance, fluorescence or <sup>a</sup> Roman spectrum, official notice all of the forgoing being taken, thus producing a device such as claimed.

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 308-2215.

D.Shay:kst  
January 28, 1999

  
DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330